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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

In re R.M., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

R.M.,

Defendant and Appellant.

A122398

(Sonoma County
Super. Ct. No. 33889J)

A juvenile offender, defendant R.M., twice escaped from a residential camp program and the court modified prior dispositional orders to place him at the Department of Juvenile Justice (DJJ). In modifying the dispositional order, the court vacated prior restitution fines and imposed a restitution fine of \$200. Defendant, through appointed counsel, challenges the fine on appeal. Defendant characterizes the fine as a second restitution fine that was wrongly imposed in addition to fines previously imposed when the juvenile delinquency petitions were sustained and the original disposition orders issued. The People maintain that the court did not impose a second fine when defendant's placement was changed from the camp to DJJ but instead modified the fines previously imposed. The People are correct and the modified restitution fine proper. We affirm the juvenile court's order.

I. FACTS

In May 2007, 17-year-old defendant R.M. committed battery upon two individuals for the benefit of a criminal street gang, in addition to other offenses. (Pen. Code, §§ 186.22, subd. (d), 242.) Defendant admitted the offenses. The court declared defendant a ward of the court, removed him from the custody of his parents, and placed him in “camp,” a residential program operated by the Sonoma County Probation Department. (Welf. & Inst. Code, § 602, subd. (a).) A restitution fine of \$100 was imposed, along with other assessments. Defendant escaped from the camp in October 2007, two weeks after being placed there, and was returned by order of the court. (Welf. & Inst. Code, § 871, subd. (a).)

In December 2007, defendant assaulted a fellow resident of the camp, breaking his nose. (Pen. Code, § 245, subd. (a)(1).) Defendant admitted the offense. The court imposed a separate restitution fine of \$100 for the assault, and returned defendant to camp. The court told defendant that his conduct put him “within a whisker” of being placed at the DJJ and warned defendant that he would be sent there if he did not reform.

Defendant did not reform. In June 2008, defendant again escaped from camp. Defendant was arrested in July 2008 and temporarily placed at juvenile hall. The probation department filed a report with the court noting that “[i]t is obvious that the Sonoma County Probation Camp Program cannot meet this young man’s needs,” and recommending commitment to DJJ.

At a disposition hearing on July 31, 2008, the court committed defendant to DJJ. Defendant’s commitment was based on petitions sustained in June 2007 (battery and other offenses), October 2007 (escape from camp), and February 2008 (assault by means of force likely to produce great bodily injury). The court set the maximum period of confinement at six years and six months, with credit for time spent in custody. The court ordered a restitution fine of \$200, while vacating “[a]ll collection of restitution ordered under prior Juvenile Court proceedings.”

II. DISCUSSION

Defendant contests the \$200 restitution fine imposed at the July 2008 disposition hearing. Defendant characterizes the fine as a second restitution fine that was imposed in addition to fines previously imposed when the petitions were sustained and the original disposition orders issued. The People reply that the \$200 fine is not a second, separate fine but a modified fine that supplants the other restitution fines that were vacated. We agree with the People.

“In every case where a minor is found to” have violated a criminal law, “the court shall impose a separate and additional restitution fine.” (Welf. & Inst. Code, § 730.6, subd. (b).) A similarly-worded statute governs adult offenders. (Pen. Code, § 1202.4, subd. (b).) It has been held, concerning adult offenders, that a court may not impose one fine when the defendant is convicted and granted probation and a second, additional fine when probation is revoked. (*People v. Chambers* (1998) 65 Cal.App.4th 819, 823.) In *Chambers*, the court noted that the “triggering event” for imposition of a restitution fine is conviction, and since the fine survives revocation of probation, a second fine for the same conviction is unauthorized. (*Id.* at pp. 821-822.) Defendant contends that a similar rule applies to juvenile offenders, and that a court may not impose a fine when a petition is sustained and a disposition selected, and a second fine when the dispositional placement is modified. The People do not dispute that contention. However, the People do dispute defendant’s reading of the record, and maintain that the court did not impose a second fine when defendant’s placement was changed from the camp to DJJ but instead modified the fines previously imposed. The People are correct.

“Any order made by the court” in juvenile delinquency proceedings “may at any time be changed, modified, or set aside, as the judge deems” proper. (Welf. & Inst. Code, § 775.) This power of modification vests the juvenile court with the authority to modify a previously-imposed restitution fine at a subsequent disposition hearing. (*In re Brian K.* (2002) 103 Cal.App.4th 39, 44.) The court here exercised that authority by

vacating the collection of restitution ordered at prior proceedings and setting the fine at \$200.

Defendant argues that the court's power to modify restitution fines could not be exercised here because defendant had already paid the original fines. Whether defendant did, in fact, pay the fines is not altogether clear from the record. For proof of payment, defendant relies exclusively upon the probation department's report stating: "We have reviewed the minor's file for issues around outstanding restitution balances and find that none exist." Defendant interprets this statement to mean that no balances exist but the statement could mean that no issues exist because payment is in process. In any event, the court retained the power to modify the restitution fines even if defendant had paid the originally imposed amounts. Defendant would, of course, be entitled to an offsetting credit for any amounts already paid. The court's order provides that "[t]he outstanding balance of previously ordered restitution . . . shall be transferred" to the DJJ, so defendant is assured that he will be credited for any payments made on the originally ordered fines. The court modified the restitution fine to be \$200, whereas the court had originally ordered two separate fines of \$100 each. Therefore, if defendant paid both of those fines in full, no further payment is required. The court was within its authority in modifying the restitution fine and its order that "[t]he outstanding balance of previously ordered restitution" be transferred to the DJJ insures that defendant will receive credit for any payments made in compliance with prior orders of the court.

III. DISPOSITION

The order is affirmed.

Sepulveda, J.

We concur:

Ruvolo, P. J.

Rivera, J.